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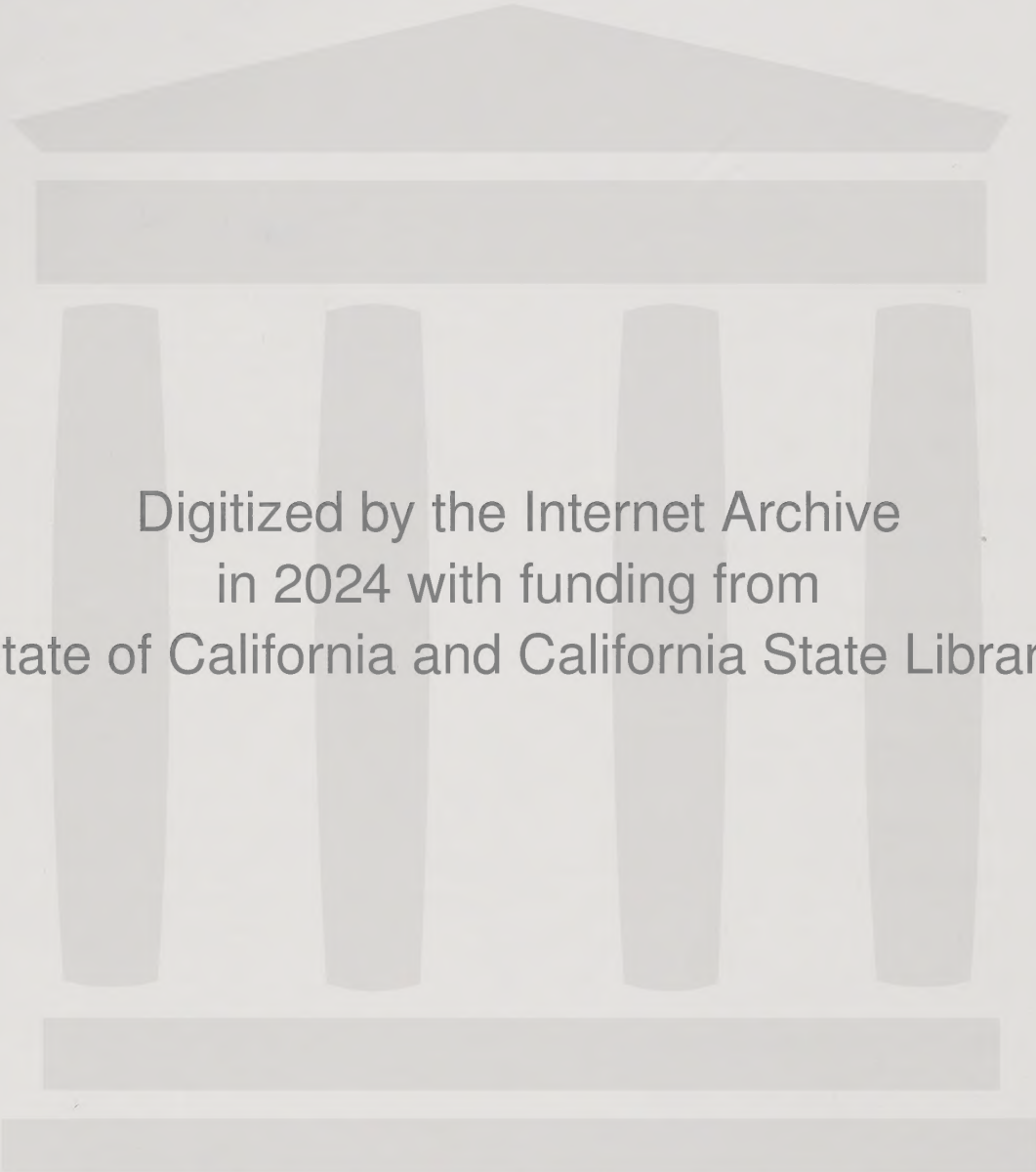
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Introduction

Berkeley's rent stabilization and eviction law regulates rent increases and establishes specific criteria for evictions.

Most residential rentals are covered by the law. Owners of covered units are required to register them annually with the Rent Stabilization Program by filing a list of rent levels with the Rent Stabilization Program and paying a rent registration fee. The fee covers the cost of operating the Rent Stabilization Program and providing services to the public.

Every year, the Rent Stabilization Board studies increases and decreases in rental property owners' operating costs. After holding at least two public hearings, the Rent Stabilization Board decides whether rents should increase, decrease or stay the same for the coming year. Rental property owners who need additional rent increases to cover substantial cost increases may apply individually to the Rent Stabilization Program. Tenants who have had housing services reduced or feel they are being illegally overcharged may apply for individual rent decreases.

Under the law, tenants can be forced to move for one of the eleven reasons listed in the ordinance. Tenants are also entitled to interest on security and cleaning deposits and last month's rent.

This booklet is designed to explain the basic provisions of the rent law. It is not a substitute for legal advice or housing counseling.

Citizens with questions about the law are strongly urged to obtain legal advice or housing counseling immediately.

Services

The Rent Stabilization Program is here to help you. Services include:

Public Information and Housing Counseling:

Trained housing counseling staff are available to answer questions about the rent law. The hours are Monday-Friday from 9:00 a.m. to 4:00 p.m. Evening phone counseling is available on Monday and Friday nights from 5:00 p.m. to 7:00 p.m. Call 644-6128.

Mediation:

Free mediation services are available in cases where both the tenant and owner want to resolve simple problems. Call 644-6128 for an appointment.

Individual Rent Adjustment Workshops:

"Nuts and Bolts" informational workshops on applying for individual rent increases and decreases are held every Wednesday at 11:00 a.m. and the first and third Wednesdays of the month at 6:00 p.m. at 2000 Center Street, Room 115.

Free Brochures and Information:

- Copies of the current rent law
- General information brochure
- Mediation service brochure
- Eviction information leaflet
- New Buyer's Tips
- Individual Rent Adjustments brochure
- Security Deposits

Bilingual Services:

Spanish, Cantonese and sign language interpreters are available by advance request.

Have a question? Call on us!

Rent Stabilization Program

2180 Milvia Street

Berkeley CA 94704

644-6128

644-6915 (TTY - Deaf access)



RENT STABILIZATION CHRONOLOGY 1978-84

November 7, 1978	MEASURE I, Proposition 13 rent rebate passed by Berkeley voters.
December, 1978	Rents rolled back to June 6, 1978 level.
1979	Rents reduced to reflect 80% rebate from Proposition 13. Increases allowed for documented unavoidable cost increases.
January, 1980	ORDINANCE 5212 took effect after passage by City Council in November, 1979.
January-June, 1980	Maximum rent increase allowed was 5% with documentation for unavoidable cost increases.
June 3, 1980	MEASURE D passed by Berkeley voters.
June 29, 1980-January, 1981	Rents set at legal level charged on May 31, 1980. No increase allowed during this period.
February, 1981	First general rent increase of 5% (6.2% if owner paid for heating) took effect.
January, 1982	Second general annual rent increase of 9% (plus additional dollar amount if owner paid for <i>all</i> utilities) took effect.
June 6, 1982	MEASURE G passed by Berkeley voters.
July 1, 1982	Formerly exempt owner-occupied tri-plexes and four-plexes became covered by the law. Rents were rolled back to the level charged on December 31, 1981.
January, 1983	General increase of 4.75% in rent (5% if owner paid for any utilities) took effect.
January, 1984	0% general increase for 1984 took effect.
January, 1985	2% general increase for 1985 in effect.

HISTORY OF BERKELEY'S RENT LAWS

Berkeley has had some kind of rent regulation since 1978. It is important to understand *all* the previous rent laws and the current one because *legal rent levels are based on compliance with every rent law since 1978*. Copies of previous rent laws are available from the City Clerk.

Measure I

After the passage of Proposition 13 in 1978, Berkeley voters passed Measure I to insure that both tenants and owners would share in the property tax savings provided in Proposition 13. Under the law, owners were required to rebate 80% of the tax savings to the tenants. The owner kept 20% as a cushion against increasing operating costs. The rent rebate was passed on to tenants by rolling rents back to the level charged on June 6, 1978 and then, starting on January 1, 1979, further reducing the rents to reflect 80% of the tax savings. Rents could be raised to cover an owner's unavoidable increases in operating costs by providing the tenants with documentation of the costs, proof that they exceeded the 20% cushion and 30 days written notice. Retaliatory evictions were prohibited.

Ordinance 5212

When Measure I expired at the end of 1979, the Berkeley City Council enacted a temporary rent law, Ordinance 5212. It basically continued most of the provisions of Measure I except that the most rents could be increased with documentation during this period was 5%. In addition, an owner could no longer raise rents because of increased mortgage costs.

Measure D

Before Ordinance 5212 expired, Berkeley voters enacted permanent rent and eviction controls in June, 1980. The law provided comprehensive rent and eviction controls as well as required that owners pay interest on cleaning and security deposits and last month's rent. Rents were set at the legal rent charged on May 31, 1980 (plus any general or individual increases set by the Board).

Measure G

In June, 1982, the rent law was amended by Measure G. The most significant changes were that penalties for non-compliance were increased and some previously exempt rentals were covered by the law.

Legal Rent

Rents are legal only if the owner has followed the rent guidelines established under Measure I, Ordinance 5212, Measure D and Measure G.

WHAT IS COVERED BY THE RENT/ EVICTION LAW?

Most residential rental property in Berkeley is covered by the rent law. Common exemptions include:

- Transient hotel/motel rooms occupied for less than 14 consecutive days;
- Section 8 rentals (exempt from rent controls but covered by eviction and other regulations);
- Owner-occupied duplexes which were owner-occupied by a 50% interest owner on December 31, 1979 and are currently owner-occupied.

Other exemptions are outlined in the law (Section 5).

WHAT IS RENT REGISTRATION?

Every year, rental property owners covered by the law are required to pay rent registration fees. The current rent registration fee is \$30 per unit. The fee supports the operation of the Rent Board which includes direct counseling and information services to tenants and rental property owners.

In order to be properly registered, rental property owners must also complete and submit to the Board rent registration forms each year. The rent registration forms enable the Rent Board to implement the rent law. By looking at the rent registration forms, a tenant can usually determine whether the current rent is legal. To find out if a property is registered, contact the Rent Board. Legal registration means (1) All fees and late penalties are paid, (2) All information required on the 1980-81, 1981-82, 1982-83, 1983-84 and 1984-85 forms has been submitted, (3) All covered units on the property are registered.

WHAT HAPPENS IF A RENTAL IS NOT REGISTERED?

Failure to pay registration fees before September 1 results in a 100% penalty. The late fee increases 100% every 60 days the registration fee is unpaid. It is illegal for a rental property owner to increase rents or evict tenants from property that is not legally registered with the Rent Board. Rental property owners give up all or part of their right to take annual general increases approved by the Rent Board by failing to register their property.

A tenant whose rental is not registered should begin by writing the owner concerning the situation (keep a copy of the letter). If this does not help resolve the problem, tenants have other options to encourage registration. These include: (1) Notifying the owner in writing (keep a copy) that some or all of the rent will be withheld *until* the property is registered. Before withholding rent, tenants should obtain housing counseling or legal advice. (2) Request the Rent Board hold a hearing on the non-registration. If the Board finds the non-registration was knowing and willful, they can authorize a tenant to withhold (and in some situations *keep*) the rent. (3) File suit against the owner in Small Claims Court for damages.

CAN RENTS BE INCREASED?

Yes. Rents can be increased two ways; the annual, across-the-board rent adjustment and by individual requests to the Rent Board.

After the current rent law was enacted in June, 1980, rents were rolled back to the legal level charged on May 31, 1980. This rent level is called the "base rent." Since then, the Board has authorized several rent increases over the "base rent" level. An example chart of the increases is on the next page.

Before an owner can take an allowable, across-the-board rent increase, s/he must:

- Register the property with the Rent Board;
- Be charging no more than the legally allowed rent under the law;
- Make sure there are no serious repair problems or notices of housing code violations;
- Give the tenant(s) at least 30 days written notice of the increase (if there is a month-to-month rental agreement). Under a lease, the owner must wait until the lease expires;
- Give notice of the increase using Rent Board approved forms. The forms are available at the Rent Board office and the Main Branch of the Berkeley Public Library;

Other requirements and details are listed in the annual rent adjustment orders enacted by the Rent Stabilization Board each year.

Owners who are not in compliance with the rent law cannot increase rents. Failure to comply with the rent law may result in the permanent loss of some or all of the allowable rent increase.

Remember, the allowable increase can be taken at any time as long as the owner is in compliance with the law. Rent increases may also be "banked" and taken in later years. Rental property owners who delayed taking the 1982 authorized rent increase are entitled to a small additional bonus rent increase. Contact the Rent Stabilization Program for details.

As of July 1, 1982, owner occupied 3 and 4 unit buildings were covered by the law. Rents in those buildings should have been rolled back to the December 31, 1981 level on July 1, 1982. December 31, 1981 is the "base rent" date for these units.

HOW TO CALCULATE THE LEGAL RENT

The chart below can be used to calculate the maximum legal rent under the rent law. Please note that it assumes the owner has met the legal requirements to take rent increases.

DATE	ORDINANCE	% INCREASE ALLOWED	EXAMPLE
12/78	Measure I	Rent rolled back to 6/78 level. We'll use a difference of \$10, though it actually varies from rental to rental.	\$275.00 -10.00 <u>\$265.00</u>
1/79	Measure I	Rent rebate begins. Rents rolled reduced an average 10%, but varies depending on repairs, tax decrease, date building purchase, etc.	-26.50 <u>\$238.50</u>
1/79-12/79	Measure I	Increases allowed to cover unavoidable costs to owner. Documentation must be provided. For example, we'll use a 15% increase.	+35.78 <u>\$274.28</u>
1/80-6/80	Ordinance 5212	5% rent increase with documentation.	+13.71 <u>\$287.99</u>
2/81	Measure D	5% rent increase (6.2% if owner pays for the heat).	+14.40 (5%) <u>\$302.39</u>
1/82	Measure D	9% (additional amount if owner pays all PG&E).	+27.22 (9%) <u>\$329.61</u>
1/83	Measure G	4.75% rent increase (5% if owner pays for any PG&E).	+16.48 (5%) <u>\$346.09</u>
1/84	Measure G	0% rent increase.	<u>\$346.09</u>
1/85	Measure G	2% rent increase	+ 6.92 (2%) <u>\$353.01</u>

Numbers may be rounded to the nearest dollar.

INDIVIDUAL RENT ADJUSTMENTS

Both tenants and rental property owners can apply for individual rent increases or decreases.

In some cases, the annual general rent adjustment does not cover a rental property owner's increases in operating costs. The owner can apply individually to the Rent Board for an extra increase. Common reasons include: capital improvements, increases in maintenance costs, and increases in the number of tenants.

Tenants can also apply for individual rent decreases. Some of the reasons for requests include: decreases in services, decreases in the number of tenants allowed in the rental and rent overcharges resulting from illegally high rents.

Application forms are available at the Rent Stabilization Program office. Once an application is filed, a mediation meeting (called the pre-hearing conference) is held. In some cases, the tenants and owner are able to amicably resolve the increase/decrease request within the requirements of the law at the mediation session. If the mediation meeting is not successful, a hearing is held. At the hearing, both tenant and owner can present information and evidence to support their cases to a trained Hearing Officer. This can include written documents and witnesses. Soon after the hearing, a written decision is issued ordering a rent increase/decrease. If either party disagrees with the decision, it can be appealed to a panel of three Rent Board members. Tenants and owners may represent themselves at the pre-hearing and hearing or may be represented by an attorney, legal worker or advocate.

In some situations, the tenant and owner may agree on a rent increase/decrease in advance. The owner can then apply for "fast track" consideration of the request. "Fast Track" petitions are allowed for the following reasons: capital improvements, an increase or agreed on decrease in the number of tenants or services, and increased repair costs. "Fast Track" petitions are approved or disallowed within 30 days. "Fast Track" requests are not approved if the change in rent violates the rent law - *even* if the tenant and the owner agree to it in advance.

PETITION TIMELINE

Day 1:	Tenant or owner files petition
Day 15:	Mediation pre-hearing held.
Day 30:	Hearing held
Day 60:	Hearing decision issued.
Day 90:	Deadline to appeal decision to Rent Board
Day 120:	Entire process completed (except in special circumstances such as where additional proceedings are required after the Appeals Panel decision).

FAST TRACK PETITION TIMELINE

Day 1:	Owner files petition. No hearing held.
Day 30:	Decision issued approving or disallowing the increase/decrease.

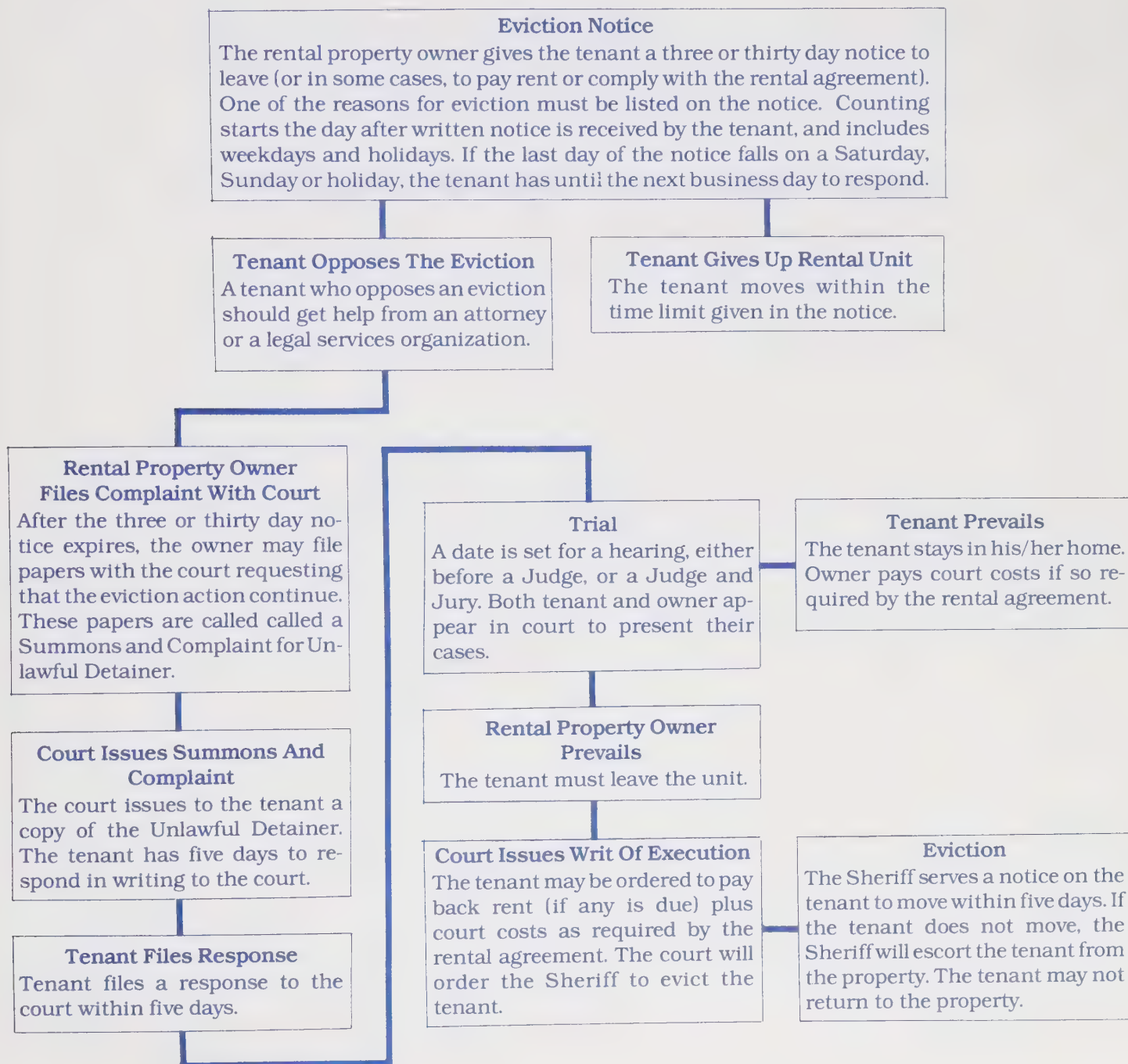
Evictions

Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance clearly describes the reasons for which a tenant may be evicted in Berkeley. Only in the event that one of the following eleven conditions exists may a tenant be legally forced to move.

1. The tenant fails to pay the rent to which the owner is legally entitled under the rent law (except in the case of rent which is being legally withheld).
2. The tenant doesn't follow the terms of the rental agreement after being requested to do so in writing.
3. The tenant causes or allows substantial damage to the rental unit, and then refuses to pay for or make sufficient repairs after being asked to do so in writing.
4. The tenant, refuses to sign a new rental agreement that is basically the same as an expired one.
5. The tenant, after receiving written notice to stop, continues to be so noisy and disruptive that it disturbs the peace and quiet of other tenants and residents.
6. The tenant refuses after written request to allow the owner access to the rental unit to show it, inspect or make repairs. The owner must first give 24 hours notice of intent to enter (except in an emergency situation).
7. A tenant may be evicted from a rental unit if it is in need of repairs which cannot be made while the tenant lives there. In this case, before giving notice to the tenant to leave, the owner must first get all necessary permits. Further, the work must be necessary to bring the unit into compliance with the Housing Code. If the owner has other vacant units in Berkeley, they must be offered to the tenant on a temporary (see #11) or permanent basis. Once the repairs have been made, the tenant must be given the first option to re-occupy the rental unit.
8. The owner has received a permit to demolish the unit.
9. The owner, the owner's spouse, parents or children wish to occupy the rental, and there has been no comparable unit available to them in the 90 days before the tenant moves out. An owner who evicts a tenant for this reason must hold at least a 50% interest in the property.
10. A lessor wishes to move back into a sub-leased unit as permitted in the rental agreement with the current tenant(s).
11. A tenant refuses to move out of temporary housing offered by the owner after repairs being done on the tenant's prior unit have been completed.

The Eviction Process

Eviction is a complex legal process. Each step must be followed carefully. The time limits imposed by the law are critical. A tenant who ignores the time limits in a three or thirty days notice, or fails to respond within five days to a Summons and Complaint, can lose his/her rental unit. Once a tenant has defaulted, there is little legal recourse to stop an eviction action. Here is a brief flow chart description of the eviction process.



Eviction Checklist

In Berkeley, there are certain requirements that must be met before a tenant may be legally evicted.

- ☒ The property must be registered with the Rent Stabilization Board: all fees must be paid, registration forms must be complete and all units on the property must be registered.
- ☒ The owner must be in compliance with all aspects of the rent law; including, charging rents that do not exceed the maximum allowable amount.
- ☒ The eviction must be for one of the legal reasons listed in this brochure and the rent law.
- ☒ The owner must allege compliance with Sections 8 and 10 of the Rent Law (registration and legal rent levels) for all covered units on the property and compliance with the Warranty of Habitability (no serious repair problems).
- ☒ A copy of each eviction notice must be filed with the Rent Stabilization Board within ten days after it is given to the tenant(s).

It Is Illegal To:

- Force a tenant to move from the property without a court order.
- Harass or threaten a tenant.
- Remove doors, windows, change the locks or remove a tenant's property from the rental unit without following the necessary legal procedures.
- Cut off or deny a tenant use of utilities to force a tenant to move out.
- Retaliate against a tenant who requests necessary repairs or who files a complaint with any government agency or who uses his/her rights under the rent law or any other laws.

State and local law is very specific regarding the procedural steps a rental property owner must follow in an eviction. Each step must be followed regardless of how the tenancy was created, or if the owner believes that there is good cause for eviction. Failure to follow the legal procedures may entitle a tenant to substantial damages. For example, state law provides civil penalties of up to \$100 a day against owners who turn off utilities and other activities intended to force the tenant to move. If a rental property owner attempts to evict a tenant in any of the ways described above, the tenant should immediately contact an attorney, housing counselor or the Rent Stabilization Program.

Retaliation Prohibited

It is illegal for a rental property owner to retaliate against a tenant who uses his/her rights under the Rent Stabilization law. Claims of retaliation may be raised as a defense in an eviction case; regardless of the amount of time that has elapsed between the tenant's assertion of his/her rights and the alleged act of retaliation. Retaliation includes harassment, any attempt to reduce services or demands that a tenant move.

Penalties

Knowing and willful violation of the eviction law is a serious offense. Tenants who are illegally evicted may sue in court for damages of \$750 or three times the actual damages, whichever is greater. The Rent Stabilization Program has the legal authority to intervene in eviction cases. Willful violation of the law may make a rental property owner liable for criminal penalties.

Information For New Buyers of Rental Property

Purchasing rental property is an important decision for prospective buyers. Use the handy checklist below to insure that the property is in compliance with the rent law:

- ☒ Before escrow closes, make sure the seller has registered the property with the Rent Stabilization Program and paid the rent registration fees.
- ☒ Visit the Rent Stabilization Program office to review the property file. This will provide information about the rent levels, repair problems, registration status and any individual rent adjustment petitions filed by the owner or tenants.
- ☒ Make sure all deposits are accounted for and deposited in an interest bearing account at a savings and loan.

The maximum allowable rent level is described on pages 6-7. The rent law does not permit increases in the rent to cover increased costs that may result from the purchase of the property. In the event the current rental income is not sufficient to cover the new mortgage, the new owner should be prepared to absorb the difference. Simply because a property is registered does *not* insure that the rents are legal. If the seller has not followed the rent laws and the rents are illegally high, the new owner will be required to lower rents to the legal level. Prospective buyers who are unsure of the legality of the rents in a building should consult an attorney to learn the best way to protect themselves.

All rent registration forms and fees are due by September 1 of each year. The new buyer is be responsible for the fees for the registration period in effect on the date of sale. The new owner is also be responsible for providing *all* registration information and the rental history of the property as required by the law.

Keep in mind that owners cannot evict tenants in order to charge higher rents to new tenants. Evictions are allowed only for the eleven specific reasons listed in the rent law (see pages 10-13).

Mediation

Mediation is a useful approach for dealing quickly and effectively with disputes between landlords, property managers and tenants.

Mediation is helpful if *both parties want* to solve the disagreement, and are willing to explore methods of resolving their conflict.

The counseling staff of the Rent Stabilization Program offers mediation services to Berkeley landlords, tenants and property managers who are having disagreements over:

Rental Payments
Housing Conditions
Deposits

How Mediation Counseling Works

- Mediation counselors do not act as judges or arbitrators; instead they listen to both sides, and assist the parties in voluntarily developing a solution that will be acceptable to both and is in compliance with the guidelines of the law.
- The Mediator is a neutral person who assists both parties in talking about their housing problems.
- The Mediator:
 - listens to both sides of the disagreement;
 - does not place blame;
 - helps both sides clarify the issues;
 - helps both sides negotiate an agreement that is **voluntary** and **lasting**.
- At the time of the session, the Mediator may listen to both parties privately, or together.
- The Mediation session is not a court hearing; witnesses are not involved.
- The Mediation session is not a counseling situation: private matters are not discussed.
- If both parties agree, a friend or relative may attend the session for support.
- Mediation counseling is **confidential**.

Mediation services are offered FREE by the Rent Stabilization Program. Evening appointments can be arranged. To set up an appointment, contact the Mediation Project at the Rent Stabilization Program office.

Interest on Deposits

As of June 29, 1980, all deposits (cleaning, security, last month's rent, etc.) should have been placed in an interest-bearing account at a savings and loan (insured by the FLSIC). The earned interest must be returned to the tenants every December, (starting in December 1982). Failure to return interest may result in the loss of the annual rent adjustment and the prohibition of eviction until the situation is corrected.

LAWSUITS

There are several lawsuits pending in the courts against the Rent Stabilization Ordinance. It will be months, or even years before the cases are finally resolved. Almost every rent law in the United States has had lawsuits filed against it. Most of the laws have been upheld by the courts.

Until ordered otherwise, the rent law is in full force and effect. The Rent Stabilization Program is fully prepared to take appropriate action in cases where the law is not complied with.

HELPFUL CITY OF BERKELEY PHONE NUMBERS

Rent Stabilization Program
2180 Milvia Street
Berkeley CA 94704
644-6128
644-6915 (TTY - Deaf services ONLY)

City of Berkeley
Planning and Community Development Department
2180 Milvia Street
Berkeley CA 94704
644-6073
Codes and Inspection Division,
644-6830 (Housing Code violations)

City of Berkeley Health Department
2180 Milvia Street
Berkeley CA 94704
644-6510

City of Berkeley Garbage Collection
1328 Allston Way
Berkeley CA 94703
644-6465

City of Berkeley Fire Department
Fire Prevention Division
644-6189

Small Claims Court
2000 Center Street
Berkeley CA 94704
644-6303

RENT STABILIZATION BOARD MEMBERS

Elected June 5, 1984

John Brauer
David Bryden
Kathleen Burgess DeVries
Gerda Miller
Betty Olds
Kathi J. Pugh
Michael M. Sims
Ora Lee Small
Carol Smith

Rent Stabilization Board meetings are generally held on the first and third Mondays of the month at 7:30 p.m. in the City Council Chambers, 2134 Martin Luther King, Jr. Way (Old Grove St). The meetings are open to the public.

Citizens can participate in the development of Rent Board policies and regulations in several ways. The Board usually schedules public hearings to get input from the community on major issues being addressed by the Board. Any Berkeley resident can speak at the hearings by filling out a speaker's request card at the beginning of the meeting. Comments on pending proposals can also be submitted in writing. In addition to public hearings, the Board has a brief public comment period at the beginning of every meeting.

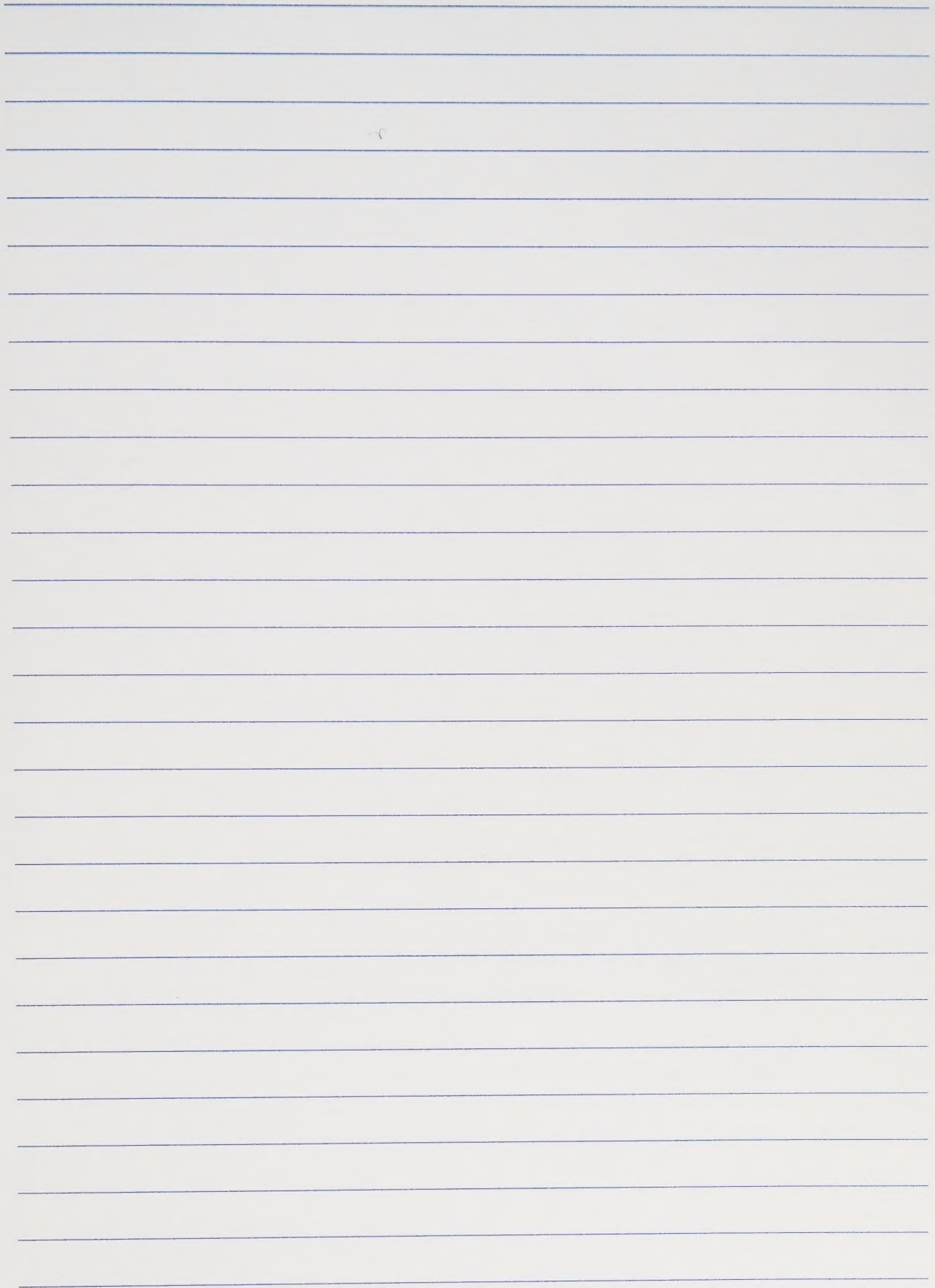
The public is welcome to listen and comment on proposals before the Rent Stabilization Board. We want your ideas!

Both Rent Board agendas and minutes are available for review at the Rent Stabilization Program office and the Main Branch of the Berkeley Public Library. Interested citizens can also subscribe to the agendas and minutes for a fee of \$6 per year (for either agendas or minutes).

Copies of background materials and staff reports used by the Rent Board members to make policy decisions at Rent Board meetings are also available for public review at the Rent Stabilization Program office and the Main Branch of the Berkeley Public Library.

All Rent Stabilization Board meetings are wheelchair accessible.

Notes:

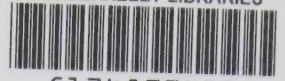


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Daniel Boggan, Jr., City Manager

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